Fishing, Hunting & Trapping
The Rights and Responsibilities of First Nations People in Manitoba

First Nations people have always had a special relationship with the natural life forms that the land provides - like fish and wildlife. This relationship is based on subsistence needs and cultural values extending back thousands of years.

The Natural Resources Transfer Agreement (NRTA), which forms part of the Constitution Act, 1930, provides that Indian people "have the right, which the Province hereby assures to them, of hunting, trapping and fishing game and fish for food at all seasons of the year on all unoccupied Crown lands and on any other lands to which (they) may have a right of access." Treaty and aboriginal rights relating to hunting, fishing and trapping are also recognized and affirmed as part of the Constitution of Canada by Section 35 of the Constitution Act, 1982.

With these rights come responsibilities like conservation and safety. People have a responsibility to ensure that their actions in taking fish and wildlife do not damage the local population of the resource taken. When the level of use is greater than the ability of the resource to sustain that use, the area can no longer meet the needs of the people. At times, restrictions become necessary for all fishers and hunters to ensure the survival of the wild populations. It is also important that all fishers and hunters be aware that safety is extremely important not only for themselves but also for other users of the land. For these reasons, there are some restrictions that are intended for conservation and safety purposes that apply to both status Indian users and licenced hunters and fishers.

Hunting or fishing for food includes harvesting for food or traditional ceremonial purposes for yourself, your family, or other First Nations persons. Meat or fish may be shared with non-status family members living with you in the same home.

Non-Indian people may accompany Indian people that are hunting or fishing, but may not help them to exercise their hunting or fishing rights. For example, non-Indian people could not set or lift nets, shoot an animal, carry a gun, search for or flush game, or take any meat, fish or animal parts. They could, however, assist in retrieval of game or transporting of game and fish while accompanying an Indian person. Similarly, licenced hunters and fishers can be accompanied by status Indians, but each may only exercise the rights accorded to them individually. All persons are encouraged to contact their local Resource Officer to discuss specific questions.

Hunting

In recognition of treaty and constitutional rights, when hunting or trapping for food on lands where they have a right of access, status Indian people:

- do not require licences;
- are not restricted to specific seasons;
- are not restricted to bag limits.

Status Indians generally have right of access to hunt for food within:

- Indian Reserves, Wildlife Management Areas, Provincial Forests, areas of Provincial Parks where licenced hunting is permitted, unoccupied Crown lands, and other Crown lands where licenced hunting or trapping is permitted;
- Private land with the permission of the landowner or occupant;
- Federal lands, such as community pastures and the Shilo Military Range, when such lands are opened to the public for hunting, or with the permission of the Pasture Manager or Base Commander.

No person may hunt within:

- Riding Mountain National Park, Birds Hill Provincial Park, Beaudry Provincial Park or Pembina Valley Provincial Park;
- Areas of provincial parks closed to all hunting;
- Refuges (for the species protected) and most Ecological Reserves.

There are circumstances where a First Nation community could construct a communal cabin on Crown land as an extension of the right to hunt or fish for food. Where there is a need for such a communal cabin, communities are asked to contact their local Manitoba Conservation office to discuss location particulars.

Fishing

In recognition of treaty and constitutional rights, when fishing for food, status Indian people:

- generally do not require licences, however, free General Fishing Permits may be required on waters where there are multiple-use management or conservation concerns;

- except for conservation closures, are generally not restricted to seasons, limits or areas;

- are not subject to gear restrictions such as gill net mesh size or the number of lines that can be used while angling, however, any nets or other unattended gear must be clearly marked with the owner's name and treaty number so that officers know the gear is legally entitled to be there and is not part of an illegal set or commercial set.

- may transport fish from the catch point to their nearest residence without a loadslip.

- Status Indian people may engage in recreational fishing and angle in fish derbies without a licence, but are subject to all other fishing regulations when not fishing for food purposes.

Conservation Requirements and Other Restrictions:

The rights of status Indians are subject to conservation measures and other restrictions that do not unduly infringe on food harvesting, therefore hunters and fishers may not:

- hunt protected wildlife for which all hunting is prohibited, such as eagles, hawks, owls and polar bears;

- waste or abandon wildlife or fish;

- use or possess lead shot while hunting waterfowl;

- sell, trade, barter or give away fish or the meat or any part of a wild animal taken under status Indian hunting or fishing rights, except that food may be given to another status Indian person; (*When you kill an animal for food you can use the non-edible parts to make traditional handicrafts for sale. However, you cannot kill an animal for the sole purpose of making items for sale)*

- hunt or fish for species or in areas closed to all persons for specific conservation reasons;

- block more than two-thirds of a river or stream with a net or other device;

- fish within 25 yards of a fish ladder or fish-way;

- use nets or other methods of fishing other than angling, in stocked trout waters;

- transport fish in excess of a regular possession limit without a fish transportation loadslip, if the fish is going from the catch point to somewhere other than their closest residence.

Safety

Many safety restrictions contained in resource-management legislation apply to all hunters in Manitoba, including status Indians. Firearm safety is an important part of hunting. These restrictions are intended to protect all people, including hunters and the public, from firearm-related accidents.

It is recommended that First Nations hunters:

- wear hunter orange clothes when hunting bear, deer, elk, moose, or caribou as there are likely to be licensed hunters hunting in the same area or there may be other people using the area for other purposes;
- take the Hunter and Firearm Safety Training Course.

Hunters cannot:

- use hunting methods which are careless, unsafe or dangerous to any person;
- hunt while intoxicated;
- discharge a rifle or shotgun at night (the period beginning at 1/2 hour after sunset and ending at 1/2 hour before sunrise the following day);
- hunt from a Provincial Road or Provincial Trunk Highway, or discharge a bow or firearm from such a road or highway, or shoot along or across such a road or highway (including the road allowance);
- discharge a centre-fire rifle, muzzle-loading firearm or shotgun using a slug from a public road within a municipality or local government district, or shoot along or across such a road;
- carry a loaded firearm in a vehicle or discharge a firearm from a vehicle.

There are also Federal regulations dealing with boat safety equipment, firearm licencing and safe storage of firearms. Information is available from the Government of Canada by phoning: 1-800-267-6687 for boating and 1-800-731-4000 for firearms.

Commercial Activities

All provincial and federal regulations apply to First Nations people engaged in commercial activities involving fish and wildlife. This would include commercial fishing, trapping furbearers for sale, game ranching, guiding and outfitting.

- Any fish intended for sale must be caught under the authority of a Commercial Fishing Licence and fishers must follow all commercial fishing laws.

- Any fur intended for sale must be caught under the authority of a Trappers Licence and trappers must follow all trapping regulations. (status Indian people may trap furbearers without licenses and with traditional methods provided these furbearers are being taken for food or traditional ceremonial purposes)

- While employed as guides or outfitters, status Indian people must be properly licenced and may not fish or hunt using their treaty or constitutional rights in any manner that could benefit their employer or their business.

Conservation Agreements

Partnership and resource co-management agreements have been and are continuing to be developed between Manitoba Conservation and the Aboriginal community. It is important to these agreements that all people participate in the process and support the objectives of these agreements.

Showing proof of your rights

When you exercise your right to hunt, trap or fish for food, a Resource Officer may ask you to show proof of your enrollment in a First Nation. You are strongly encouraged to carry your federally issued *Certificate of Indian Status* to help them to determine that you are a person entitled to exercise those rights. Failure to show proof of status could result in unnecessary seizure of fish, game and equipment until the matter is resolved.

It is also important to understand that there are many other resource-users on the land that are carrying on their traditions by fishing, hunting and trapping. These activities have also become a part of their heritage. Each user group must respect the privileges and rights of the other. Commercial and other licenced users of fish and wildlife need to understand and respect the constitutionally protected rights of First Nations, and it is equally important for First Nations people to understand and respect the value that other users place on natural resources, and their ability to participate in fishing, hunting and trapping for their purposes under licence. All users need to understand and respect each other's values and work co-operatively towards building a stronger relationship if Manitoba's fishing, hunting and trapping heritage is to be preserved.

For more information on fish and wildlife conservation, fishers, hunters, and trappers are encouraged to obtain copies of the Manitoba *Angler's Guide*, the *Hunting Guide* and the *Trapping Guide* from the nearest Manitoba Conservation office or a licence vendor.

For clarification or more information on specific areas or situations, please contact your nearest office of Manitoba Conservation, or telephone 945-6784 in Winnipeg or 1-800-214-6497 (out-of-town-dialers). This bulletin explains Manitoba Conservation's understanding about the law relating to the fishing, hunting, and trapping rights of status Indian people in Manitoba, as of January 2003. Readers are encouraged to regularly check this bulletin for updates. The information is based on provisions of the Constitution of Canada, federal and provincial legislation and case law.